

Presented to the Court by the foreman of the  
Grand Jury in open Court, in the presence of  
the Grand Jury and FILED in the U.S.  
DISTRICT COURT at Seattle, Washington.

March 24, 2024

Kavi Subramanian, Clerk

By Deputy

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff

v.

JONATHAN ACHTEMEIER,

Defendant.

NO. **CR24-5072 TMC**  
**INDICTMENT**

The Grand Jury charges that:

**COUNT 1**

**(Conspiracy)**

**A. Overview**

1. JONATHAN ACHTEMEIER tampered with pollution control software on hundreds of diesel trucks in violation of the Clean Air Act. ACHTEMEIER conspired with truck owners or mechanics that had previously removed, or intended to remove, pollution control hardware from trucks. In exchange for a fee of up to \$4,500 per truck, ACHTEMEIER reprogrammed ("tuned") the trucks' on-board diagnostic systems (OBDS) to prevent the OBDS from detecting the fact that the pollution controls had been

1 removed, thus causing excess pollution. ACHTEMEIER performed most of the tunes  
2 remotely, and he was often able to complete the procedure in an hour or less.

3       2.       ACHTEMEIER tuned OBDs on hundreds of trucks throughout the United  
4 States, including trucks located within the Western District of Washington.  
5 ACHTEMEIER conspired with at least five Western Washington-based individuals  
6 (referred to herein as Co-Conspirators 1 through 5) to perform illegal tunes.

7       3.       Co-Conspirators 1, 2, and 5 worked for garages that serviced trucks for  
8 customers. These Co-Conspirators conspired with ACHTEMEIER to tune trucks owned  
9 by their respective customers, and they assisted ACHTEMEIER in the process of tuning  
10 those trucks. Co-Conspirators 1, 2, and 5 profited from the arrangement because they  
11 either received a portion of the money their customers paid for tuning services or charged  
12 for their own work on top of the tune.

13       4.       Co-Conspirator 3 and Co-Conspirator 4 worked for companies that owned  
14 fleets of diesel trucks. Co-Conspirator 3 and Co-Conspirator 4 each worked together with  
15 ACHTEMEIER to delete and tune fleet trucks owned by their respective companies.

16       5.       Between 2018 and 2021, Achtemeier's company, Voided Warranty Tuning,  
17 received more than \$5 million in gross profits for tuning and other services.

18 **B.     Regulation of Pollution Systems**

19       6.       The Clean Air Act protects the nation's air quality by, among other things,  
20 seeking to reduce the emission of air pollutants, such as nitrogen oxides, particulate  
21 matter, non-methane hydrocarbons, and carbon monoxide from mobile sources, including  
22 motor vehicles. These pollutants have been shown to cause cancer, as well as pulmonary,  
23 neurological, cardiovascular, and immune system damage. Diesel exhaust is known to  
24 contain multiple hazardous air pollutants and is one of the largest sources of particulate  
25 matter and other pollutants.

1           7.     The United States Environmental Protection Agency (EPA) has issued  
2 regulations pursuant to the Clean Air Act that limit the volume of pollutants that motor  
3 vehicles, including diesel trucks, can emit. To meet these standards, diesel vehicle and  
4 engine manufacturers have developed a variety of pollution control devices (sometimes  
5 called emissions control devices). These hardware pollution control devices are critical to  
6 ensuring that the vehicles comply with the Clean Air Act's emissions standards.

7           8.     EPA regulations also require vehicle and engine manufacturers to install  
8 monitoring devices known as on-board diagnostic systems (OBDs). 42 U.S.C.  
9 § 7521(m)(1); 40 C.F.R. §§ 86.010-18(a) and 86.1806-05(a)(1). Per the regulations, the  
10 OBD must be capable of monitoring all pollution control components to ensure they are  
11 functioning properly. If there is a malfunction or deterioration of the pollution control  
12 system, the OBD will trigger a diagnostic trouble code, causing a malfunction indicator  
13 light or "check engine" light to be illuminated in the vehicle's cabin. Typically, if the  
14 malfunction is not resolved, the OBD will force the vehicle's engine to shut down or  
15 place the vehicle in a state known as "limp mode," limiting the maximum speed to as low  
16 as five miles per hour.

17 **C.     Pollution Control System "Deletes" and "Tunes"**

18           9.     Persons seeking to evade the Clean Air Act's pollution controls have  
19 developed methods of modifying or removing pollution control hardware and rendering  
20 the OBDs inaccurate. These modifications are marketed to truck owners as cost-saving  
21 measures or as improving the horsepower, torque, and other characteristics of diesel  
22 engines. The act of removing a vehicle's pollution control hardware is often referred to as  
23 a "delete."

24           10.    EPA studies have determined that a single deleted diesel truck can cause  
25 pollution equal to between 30 and 1,200 similar trucks with compliant pollution systems,  
26 depending on the pollutant and the model of the truck.  
27

11. If a truck is deleted, a properly functioning OBD will detect the removal or malfunction of the pollution control equipment and the “check engine” light will illuminate. Typically, the OBD then renders the truck inoperative or puts the truck into limp mode. So, a mechanic performing a delete will also disable or modify the OBD, thereby preventing it from detecting the removal or malfunction. The act of rendering the OBD inaccurate is often referred to as a “tune” or a “flash.” It is a felony to falsify, tamper with or render inaccurate any monitoring device required by the CAA, including an OBD. 42 U.S.C. § 7413(c)(2)(C).

**D. The Conspiracy**

12. Beginning at a time unknown, but no later than March 2019, and continuing until at least November 29, 2022, at Lewis County, within the Western District of Washington, and elsewhere, JONATHAN ACHTEMEIER, Co-Conspirator 1, Co-Conspirator 2, Co-Conspirator 3, Co-Conspirator 4, Co-Conspirator 5, and others known and unknown to the Grand Jury, agreed to falsify, tamper with, and render inaccurate the on-board diagnostic (OBD) monitoring devices on diesel vehicles so that the vehicles would operate while polluting at levels in excess of EPA limits. Co-Conspirators 1 through 5 were located within the Western District of Washington.

13. By entering into the foregoing agreement, JONATHAN ACHTEMEIER, together with Co-Conspirators 1 through 5, and others known and unknown to the grand jury, did knowingly conspire, confederate and agree, together and with each other, to knowingly falsify, tamper with, and render inaccurate, monitoring devices and methods required to be maintained under the Clean Air Act in violation of Title 42, United States Code, Section 7413(c)(2)(C).

14. The object of the conspiracy was to delete and tune trucks owned or serviced by ACHTEMEIER’s co-conspirators, to prevent the OBD from detecting the removal or disabling of the pollution control equipment, thereby generating revenue for

1 ACHTEMEIER and generating revenue for, decreasing operating costs of, and otherwise  
2 facilitating the businesses of, ACHTEMEIER's co-conspirators.

3 **E. Manner and Means**

4 It was part of the conspiracy that:

5 *i. ACHTEMEIER's business performed illegal tunes.*

6 15. ACHTEMEIER owned and operated at least two companies that he used to  
7 facilitate his illegal activity: Benchharness, Inc., doing business as Voided Warranty  
8 Tuning (VWT), and Optimized Ag. ACHTEMEIER advertised his services on social  
9 media or by word of mouth. Diesel truck owners solicited his illegal tuning services  
10 directly or through mechanics.

11 16. ACHTEMEIER sometimes worked with diesel truck owners and mechanics  
12 to delete or disable the pollution control hardware systems. Other times, customers  
13 contacted ACHTEMEIER after the pollution control hardware had already been  
14 removed.

15 17. ACHTEMEIER tuned diesel vehicles by linking a laptop computer to the  
16 vehicles' OBDs. ACHTEMEIER then used specialized software to tamper with and  
17 render inaccurate the vehicles' OBDs such that they would no longer detect the absence  
18 of functioning pollution control equipment.

19 18. ACHTEMEIER sometimes provided customers with laptop computers  
20 equipped with specialized software. ACHTEMEIER directed the customers to connect  
21 the laptop to the vehicle to be tuned. Using his own computer, ACHTEMEIER then  
22 remotely connected to the customer's laptop and used it to tune the vehicle.

23 19. ACHTEMEIER sometimes encouraged customers to whom he had  
24 provided laptops to share those laptops with other potential customers, so that  
25 ACHTEMEIER could then perform services for those additional customers.

1           20.     ACHTEMEIER typically charged between \$750 and \$3,500 per tune,  
2 although at times he charged as much as \$4,500 for a single tune. ACHTEMEIER  
3 performed many tunes remotely, enabling him to net as much as \$4,500 for just a few  
4 hours (or less) of work.

5           21.     ACHTEMEIER concealed his unlawful activity by creating misleading  
6 invoices for his tuning services. ACHTEMEIER sent invoices to clients on which he  
7 disguised the tunes as costs for “labor” or “diag.”

8           22.     ACHTEMEIER performed and caused to be performed tunes on at least  
9 hundreds of vehicles between 2019 and 2022, including on vehicles within the Western  
10 District of Washington. Between 2018 and 2021, his company VWT reported over \$5  
11 million in gross profits.

12           *ii.     ACHTEMEIER worked with Co-Conspirators*

13           23.     ACHTEMEIER conspired with mechanics and truck owners, including Co-  
14 Conspirators 1 through 5, to facilitate his illegal tuning scheme.

15           24.     Co-Conspirators 1 and 2 worked for different garages, both located in  
16 Cowlitz County, that serviced trucks for customers. Co-Conspirators 1 and 2 identified  
17 truck owners who wanted to illegally delete and tune their diesel trucks, and coordinated  
18 with ACHTEMEIER to perform the tunes. Co-Conspirator 1 facilitated the illegal tunes  
19 by, among other things, connecting customers’ trucks to a laptop computer so  
20 ACHTEMEIER could remotely connect to the truck and perform the tune. Co-  
21 Conspirator 1’s garage billed its customers for the tunes, along with other services.

22           25.     Co-Conspirator 2 worked with staff in his garage to delete customer trucks  
23 that ACHTEMEIER tuned. Co-Conspirator 2 invoiced customers for the deletes and  
24 tunes and paid a portion of the proceeds to ACHTEMEIER for the tune. For example,  
25 Co-Conspirator 2 charged his customer \$2,769.07 for the delete and tune associated with  
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Count 5 below. \$1,533.33 was for “tune,” and the rest was for exhaust-related work and parts. Co-Conspirator 2 paid ACHTEMEIER \$850 for his work on the tune.

26. ACHTEMEIER conspired with Co-Conspirator 3 to delete and tune trucks in the fleet of Co-Conspirator 3’s employer that were beyond their warranty. ACHTEMEIER tuned the trucks and showed Co-Conspirator 3 how to bypass the pollution control hardware with a straight pipe.

27. ACHTEMEIER conspired with Co-Conspirator 4 to delete and tune trucks in the fleet of Co-Conspirator 4’s employer. Co-Conspirator 4 downloaded onto a laptop computer a program that enabled ACHTEMEIER to remotely access trucks’ OBDs. Co-Conspirator 4 then connected the laptop to trucks, allowing ACHTEMEIER to remotely tune the trucks.

28. Co-Conspirator 5 worked at a repair facility that serviced diesel trucks. Co-Conspirator 5 identified customers whose trucks had been deleted and arranged for ACHTEMEIER to tune the trucks. ACHTEMEIER typically performed the tunes remotely through Co-Conspirator 5’s computer, which Co-Conspirator 5 or a staff member connected to the subject truck. Co-Conspirator 5 charged the customer a fee for arranging the tunes.

#### **F. Overt Acts**

29. In furtherance of the conspiracy, and to accomplish one or more of its objects, JONATHAN ACHTEMEIER, Co-Conspirators 1 through 5, and others known and unknown to the grand jury, undertook, and caused to be undertaken, one or more of the following overt acts, which are representative of defendant’s various acts in furtherance of the conspiracy, at Lewis County and elsewhere within the Western District of Washington:

a. On or about April 18, 2019, ACHTEMEIER used and caused to be used software to falsify, tamper with, and render inaccurate the OBD in a 2016

1 International truck being serviced by Co-Conspirator 1, as charged in Count 2 of this  
2 Indictment;

3           b.       On or about July 11, 2019, ACHTEMEIER used and caused to be  
4 used software to falsify, tamper with, and render inaccurate the OBD in a 2015 Kenworth  
5 truck being serviced by Co-Conspirator 1, as charged in Count 3 of this Indictment;

6           c.       On or about September 24, 2020, ACHTEMEIER used and caused  
7 to be used software to falsify, tamper with, and render inaccurate the OBD in a 2009  
8 Dodge truck being serviced by Co-Conspirator 2, as charged in Count 4 of this  
9 Indictment;

10           d.       On or about September 28, 2020, Co-Conspirator 2 paid  
11 ACHTEMEIER \$750 for an illegal tune performed on a 2009 Dodge truck;

12           e.       On or about October 15, 2020, ACHTEMEIER used and caused to  
13 be used software to falsify, tamper with, and render inaccurate the OBD in a 2016 RAM  
14 truck being serviced by Co-Conspirator 2, as charged in Count 5 of this Indictment;

15           f.       On or about March 19, 2021, ACHTEMEIER used and caused to be  
16 used software to falsify, tamper with, and render inaccurate the OBD in a 2015 Kenworth  
17 truck being serviced by Co-Conspirator 1, as charged in Count 6 of this Indictment;

18           g.       On or about July 14, 2021, Co-Conspirator 3 sent a text message to  
19 ACHTEMEIER regarding payment for ACHTEMEIER's illegal tuning services;

20           h.       On or about July 14, 2021, ACHTEMEIER used and caused to be  
21 used software to falsify, tamper with, and render inaccurate the OBD in a 2016  
22 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 7 of this  
23 Indictment;

24           i.       On or about August 3, 2021, Co-Conspirator 3 sent ACHTEMEIER  
25 a text message asking if ACHTEMEIER was available to tune a vehicle;  
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1           j.       On or about August 3, 2021, ACHTEMEIER sent a text message to  
2 Co-Conspirator 3 confirming that he was available to tune a vehicle;

3           k.       On or about August 10, 2021, ACHTEMEIER used and caused to be  
4 used software to falsify, tamper with, and render inaccurate the OBD in a 2016  
5 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 8 of this  
6 Indictment;

7           l.       On or about August 10, 2021, ACHTEMEIER issued an invoice to  
8 Co-Conspirator 3 for tuning a 2016 Freightliner;

9           m.       On or about February 25, 2022, ACHTEMEIER used and caused to  
10 be used software to falsify, tamper with, and render inaccurate the OBD in a 2017  
11 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 9 of this  
12 Indictment;

13           n.       On or about April 28, 2022, ACHTEMEIER used and caused to be  
14 used software to falsify, tamper with, and render inaccurate the OBD in a 2016  
15 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 10 of this  
16 Indictment;

17           o.       On or about April 28, 2022, Co-Conspirator 3 sent ACHTEMEIER a  
18 text message regarding payment for tuning;

19           p.       On or about May 20, 2022, ACHTEMEIER used and caused to be  
20 used software to falsify, tamper with, and render inaccurate the OBD in a 2015 Peterbilt  
21 truck belonging to Co-Conspirator 4, as charged in Count 11 of this Indictment;

22           q.       On or about July 19, 2022, ACHTEMEIER sent a text message  
23 confirming that ACHTEMEIER was available to tune additional vehicles belonging to  
24 Co-Conspirator 3;

25           r.       On or about July 19, 2022, ACHTEMEIER used and caused to be  
26 used software to falsify, tamper with, and render inaccurate the OBD in a 2016  
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1 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 12 of this  
2 Indictment;

3 s. On or about July 21, 2022, ACHTEMEIER used and caused to be  
4 used software to falsify, tamper with, and render inaccurate the OBD in a 2017  
5 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 13 of this  
6 Indictment;

7 t. On or about November 10, 2022, ACHTEMEIER used and caused  
8 to be used software to falsify, tamper with, and render inaccurate the OBD in a 2017  
9 Freightliner truck belonging to Co-Conspirator 3, as charged in Count 14 of this  
10 Indictment; and

11 u. On or about November 13, 2022, Co-Conspirator 3 paid  
12 ACHTEMEIER for tuning a 2017 Freightliner. The tuning work was concealed on the  
13 invoice as "Sales labor."

14 All in violation of Title 18, United States Code, Section 371.

15 **COUNTS 2–14**

16 **(Violations of the Clean Air Act)**

17 30. The Grand Jury incorporates by reference Paragraphs 1–29 of this  
18 Indictment as if fully set forth herein.

19 31. On or about the dates set forth below, at the counties listed below, within  
20 the Western District of Washington, and elsewhere, the defendant JONATHAN  
21 ACHTEMEIER and others known and unknown did knowingly falsify, tamper with, and  
22 render inaccurate, and aid and abet in doing so, monitoring devices and methods required  
23 to be maintained under the Clean Air Act, that is, the on-board diagnostic devices on the  
24 diesel trucks listed below. Each of these counts was committed in furtherance of the  
25 conspiracy charged in Count One.  
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<b>Count</b>	<b>Date</b>	<b>Vehicle Type</b>	<b>County</b>	<b>Co-Conspirator</b>
2	4/18/2019	2016 International MA025	Cowlitz County	Co-Conspirator 1
3	7/11/2019	2015 Kenworth T800	Cowlitz County	Co-Conspirator 1
4	9/24/2020	2009 Dodge R3500	Cowlitz County	Co-Conspirator 2
5	10/15/2020	2016 Ram 3500	Cowlitz County	Co-Conspirator 2
6	3/19/2021	2015 Kenworth W900	Cowlitz County	Co-Conspirator 1
7	7/14/2021	2016 Freightliner	Lewis County	Co-Conspirator 3
8	8/10/2021	2016 Freightliner	Lewis County	Co-Conspirator 3
9	2/25/2022	2017 Freightliner	Lewis County	Co-Conspirator 3
10	4/28/2022	2016 Freightliner	Lewis County	Co-Conspirator 3
11	5/20/2022	2015 Peterbilt	Clallam County	Co-Conspirator 4
12	7/19/2022	2016 Freightliner	Lewis County	Co-Conspirator 3
13	7/21/2022	2017 Freightliner	Lewis County	Co-Conspirator 3
14	11/10/2022	2017 Freightliner	Lewis County	Co-Conspirator 3

1 All in violation of Title 42, United States Code, Section 7413(c)(2)(C) and Title 18,  
2 United States Code, Section 2.

3  
4 A TRUE BILL:

5  
6 DATED: 3/27/24

7 *Signature of Foreperson redacted pursuant*  
8 *to the policy of the Judicial Conference of*  
9 *the United States.*

10  
11 \_\_\_\_\_  
12 FOREPERSON

13  
14  
15 TESSA M. GORMAN  
16 United States Attorney

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18  
19 SETH WILKINSON  
20 Assistant United States Attorney

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